

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

NOVARTIS PHARMACEUTICALS  
CORPORATION,

*Plaintiff,*

v.

ACCORD HEALTHCARE INC., et al.,

*Defendants.*

C.A. No. 18-cv-01043-LPS

REDACTED  
PUBLIC VERSION

**DECLARATION OF KEITH MECKSTROTH IN SUPPORT OF MYLAN  
PHARMACEUTICALS INC.'S MOTION TO DISMISS FOR IMPROPER VENUE**

1. I am currently the Head of Finance for Mylan Pharmaceuticals Inc. ("MPI"). I have held this position since October 2016, and I have been employed by one or more Mylan entities since June 2009. I submit this declaration in support of *Mylan Pharmaceuticals Inc. 's Motion to Dismiss for Improper Venue*.

2. The information in this declaration is based on my personal knowledge and information made available to me while performing my duties at MPI. If called as a witness, I could and would testify competently to the matters discussed below.

3. MPI is a corporation, organized and existing under the laws of the State of West Virginia, with a principal place of business at 781 Chestnut Ridge Road, Morgantown, West Virginia 26505. MPI is not and has never been incorporated in the State of Delaware.

4. MPI is a healthcare company dedicated to making high-quality medicines available to everyone in the United States who needs them. MPI's predecessor, Milan Pharmaceuticals, Inc., was founded in 1961 by U.S. Army buddies Milan "Mike" Puskar and Don Panoz in White Sulfur Springs, West Virginia to allow individuals living in small West Virginia towns and rural communities access to affordable medicine. In 1965, MPI moved to Morgantown, West Virginia,

where it continues its operations at several facilities there. MPI has maintained its principal place of business in West Virginia since its founding, and its present address is 781 Chestnut Ridge Road, Morgantown, West Virginia 26505. MPI has existed as a West Virginia corporation since its founding, and it remains organized and existing under the laws of the State of West Virginia.

5. To fulfill its commitment of making high-quality medicines available to everyone in the United States who needs them, MPI's business necessarily requires researching, developing, seeking regulatory approval for, manufacturing or having manufactured, and selling of pharmaceutical products in the United States. MPI has filed over [REDACTED] applications with the FDA to date, including both New Drug Applications ("NDAs") and Abbreviated New Drug Applications ("ANDAs").

6. MPI does not have a physical place of business in the State of Delaware. MPI does not own, lease, or control any manufacturing plants, corporate offices, facilities, or any other type of real property in the State of Delaware. MPI's business activities and real estate—including MPI's affiliates' business activities and real estate—are not and have never been geographically located in the State of Delaware. [REDACTED]  
[REDACTED]  
[REDACTED]

7. MPI has not represented, marketed, or advertised that it has any physical place of business in the State of Delaware.

8. MPI does not have any telephone listings or mailing addresses for any fixed geographical location owned, leased, controlled, or occupied by MPI in the State of Delaware.

9. [REDACTED]  
[REDACTED]  
[REDACTED]

**MPI's Fingolimod ANDA**

10. I am aware that on [REDACTED], MPI submitted to the FDA Abbreviated New Drug Application ("ANDA") No. 208005 seeking approval for generic fingolimod in the United States. The ANDA was prepared in West Virginia by MPI and electronically submitted by MPI to the FDA in Maryland. As set forth in ANDA No. 208005, MPI is the sole ANDA applicant.

11. I am also aware that after the filing of the ANDA, a patent amendment was made to certify that U.S. Patent No. 9,187,405 is invalid and will not be infringed by MPI's ANDA product. MPI provided Plaintiff notice of this certification on [REDACTED]

12. To date, there has been no manufacture, sale, or offer for sale of generic fingolimod products that are the subject of ANDA No. 208005 in the United States or in Delaware.

I declare under penalty of perjury, under the laws of the United States, that the foregoing is true and correct to the best of my knowledge.

Executed on September 6, 2018

By:   
Keith Meckstroth



**CERTIFICATE OF SERVICE**

I hereby certify that on September 7, 2018, true and correct copies of the foregoing document were caused to be filed with the Clerk of Court via CM/ECF, which will send notification of the filing to counsel of record, and I further certify that true and correct copies of the foregoing document were caused to be served on the following counsel of record as indicated:

**VIA ELECTRONIC MAIL**

Jane M. Love, Ph.D.  
Robert Trenchard  
Paul E. Torchia  
GIBSON, DUNN & CRUTCHER LLP  
200 Park Avenue  
New York, NY 10166  
(212) 351-4000  
JLove@gibsondunn.com  
RTrenchard@gibsondunn.com  
PTorchia@gibsondunn.com

**VIA ELECTRONIC MAIL**

Andrew P. Blythe  
GIBSON, DUNN & CRUTCHER LLP  
333 South Grand Avenue  
Los Angeles, CA 90071  
(213) 229-7000  
ABlythe@gibsondunn.com

*Attorneys for Novartis Pharmaceuticals  
Corporation*

**VIA ELECTRONIC MAIL**

Michael P. Kelly  
Daniel M. Silver  
Benjamin A. Smyth  
McCARTER & ENGLISH, LLP  
Renaissance Centre  
405 N. King Street, 8th Floor  
Wilmington, DE 19801  
(302) 984-6300  
mkelly@mccarter.com  
dsilver@mccarter.com  
bsmyth@mccarter.com

*Attorneys for Novartis Pharmaceuticals  
Corporation*

/s/ Jason J. Rawnsley

Jason J. Rawnsley (#5379)  
rawnsley@rlf.com